



**Rule and Interpretive/Policy Statement Review Checklist**  
(This form must be filled out electronically.)

**This form is to be used when the current version of the rule(s) has/have not previously been reviewed. When reviewing an interpretive or policy statement, this document is to be used only if the review of the statement is not in conjunction with the review of a rule.**

All responses should be **bolded**.

Document(s) Reviewed (include title): **WAC 458-20-167 (Educational institutions, school districts, student organizations, and private schools)**

Date last adopted/issued: **January 7, 1999**

Reviewer: **Sue Goldstein**

Date review completed: **March 11, 2004**

Briefly explain the subject matter of the document(s): **This rule explains the application of Washington's B&O, retail sales, and use taxes to educational institutions, school districts, student organizations, and private schools. It also gives tax reporting information to persons operating nursery schools, preschools, and daycares.**

Type an "X" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

**1. Public requests for review:**

YES	NO	
	<b>X</b>	Is this document being reviewed at this time because of a public (e.g., taxpayer or business association) request?

If "yes," provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request.

**2. Need:**

YES	NO	
<b>X</b>		Is the document necessary to comply with the statutes that authorize it? (E.g., Is it necessary to comply with or clarify the application of the statutes that are being implemented? Does it provide detailed information not found in the statutes?)
	<b>X</b>	Is the information provided in the document so obsolete that it is of little value, warranting the repeal or revision of the document?
<b>X</b>		Have the laws changed so that the document should be revised or repealed? (If the response is "yes" that the document should be repealed, explain and identify the statutes the rule implemented, and skip to Section 10.)



<b>X</b>	Is the document necessary to protect or safeguard the health, welfare (budget levels necessary to provide services to the citizens of the state of Washington), or safety of Washington's citizens? (If the response is "no", the recommendation must be to repeal the document.)
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Please explain.

**This rule is necessary to clarify the application of B&O, retail sales, and use taxes to educational institutions, school districts, student organizations, and private schools as it provides definitions, explanations, and examples that help explain the application of the taxes for taxpayers and departmental staff. Rule 167 is not obsolete. It was last revised in 1999 and is currently providing useful information.**

**Subsection (5)(b)(ii) explains the use tax exemption provided for computer equipment donated to any public or private nonprofit school or college, and includes the definition of "computer" provided by RCW 82.12.0284. This definition was changed in chapter 168, Laws of 2003 to be the definition provided in RCW 82.04.215, again as redefined by chapter 168.**

**3. Related interpretive/policy statements, court decisions, BTA decisions, and WTDs:**

Complete Subsection (a) only if reviewing a rule. Subsection (b) should be completed only if the subject of the review is an interpretive or policy statement. Excise Tax Advisories (ETAs), Property Tax Advisories and Bulletins (PTAs/PTBs), and Interim Audit Guidelines (IAGs) are considered interpretive and/or policy statements.

**(a)**

YES	NO	
	<b>X</b>	Are there any interpretive or policy statements that should be incorporated into this rule? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	<b>X</b>	Are there any interpretive or policy statements that should be cancelled because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	<b>X</b>	Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that provide information that should be incorporated into this rule?
	<b>X</b>	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the rule?

**(b)**

YES	NO	
		Should this interpretive or policy statement be incorporated into a rule?
		Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that affect the information now provided in this document?
		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the document?



If the answer is "yes" to any of the questions in (a) or (b) above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

**4. Clarity and Effectiveness:**

YES	NO	
<b>X</b>		Is the document written and organized in a clear and concise manner?
	<b>X</b>	Are citations to other rules, laws, or other authority accurate? (If no, identify the incorrect citation below and provide the correct citation.)
<b>X</b>		Is the document providing the result(s) that it was originally designed to achieve? (E.g., does it reduce the need for taxpayers to search multiple rules or statutes to determine their tax-reporting responsibilities or help ensure that the tax law and/or exemptions are consistently applied?)
	<b>X</b>	Do changes in industry practices warrant repealing or revising this document?
	<b>X</b>	Do administrative changes within the Department warrant repealing or revising this document?

Please explain.

**Citations:**

- In subsection (2)(b)(vii), "degree-granting private vocational school" is defined under chapter 28B.85 RCW (only), not chapter 28C.10 RCW. Chapter 28C.10 RCW refers once (RCW 28C.10.030) to "degree-granting programs."
- In subsection (3)(b) it should be "retailing B&O tax" not "retailing BO tax."
- In subsection (4)(a) it should be "RCW 82.08.02537" not "RCW 82.08.2537."
- In subsection (5)(b)(ii) the reference should be to "chapter 84.36 RCW" not "chapter 82.36 RCW."
- In subsection (5)(b)(iii)(B), the RCW section from Chapter 182, Laws of 1998, that is pertinent is RCW 82.12.02595.

**5. Intent and Statutory Authority:**

YES	NO	
<b>X</b>		Does the Department have sufficient authority <b>to adopt</b> this document? (Cite the statutory authority in the explanation below.)
<b>X</b>		Is the document consistent with the legislative intent of the statute(s) that authorize it? (I.e., is the information provided in the document consistent with the statute(s) that it was designed <b>to implement</b> ?) If "no," identify the specific statute and explain below. List all statutes being implemented in Section 9, below.)
	<b>X</b>	Is there a need to recommend legislative changes to the statute(s) being implemented by this document?

Please explain.

**RCW 82.32.300 and 82.01.060(2) authorize and direct the Department of Revenue to adopt and publish rules.**



Subsection (5)(b)(iv) discusses the use tax exemption provided by RCW 82.12.0264. The discussion cites the "Community College Act of 1967," consistent with the statute. However, the Act was updated and is now the "Community College Act of 1991" (RCW 28B.50.010) and could be referred to as "Community and Technical Colleges, Chapter 28B.50 RCW." The Department should consider legislation to update the statutory provision.

Additionally, subsection (5)(b)(iii)(B) discusses the exemption for donations of tangible personal property to charitable nonprofits. SSB 6115 (2004) expands this exemption to include donations of amusement and recreation services by or to nonprofits. This information should be incorporated in the next revision of the rule as proponents of this legislation stressed that this change in the law was necessary to encourage the continued donation of golf rounds for high school golf teams.

**6. Coordination:** Agencies should consult with and coordinate with other governmental entities that have similar regulatory requirements when it is likely that coordination can reduce duplication and inconsistency.

YES	NO	
	<b>X</b>	Could consultation and coordination with other governmental entities and/or state agencies eliminate or reduce duplication and inconsistency?

Please explain.

**The Department of Revenue has historically sought input from the Higher Education Coordinating Board and the Work Force Training and Education Coordinating Board when revising Rule 169. The Department should continue to seek input from these sources when it next revises this rule.**

**7. Cost:** When responding, consider only the costs imposed by the document being reviewed and not by the statute.

YES	NO	
	<b>X</b>	Have the qualitative and quantitative benefits of the document been considered in relation to its costs? (Answer "yes" only if a Cost Benefit Analysis was completed when the rule was last adopted or revised.)

Please explain.

**This rule imposes no new or additional administrative burdens that are not imposed by statute.**

**8. Fairness:** When responding, consider only the impacts imposed by the document being reviewed and not by the statute.

YES	NO	
<b>X</b>		Does the document result in equitable treatment of those required to comply with it?
	<b>X</b>	Should it be modified to eliminate or minimize any disproportionate impacts on the regulated community?



	<b>X</b>	Should the document be strengthened to provide additional protection to correct any disproportionate impact on any particular segment of the regulated community?
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Please explain.

**9. LISTING OF DOCUMENTS REVIEWED:** Use “bullets” with any lists, and include documents discussed above. Citations to statutes, interpretive or policy statements, and similar documents should include titles. Citations to Attorney General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).

Statute(s) Implemented:

- **RCW 82.04.170 ("Tuition fee")**
- **RCW 82.04.250 (Tax on retailers)**
- **RCW 82.04.290 (Tax on international investment management services or other business or service activities)**
- **RCW 82.04.339 (Exemptions--Day care provided by churches)**
- **RCW 82.04.399 (Exemptions--Sales of academic transcripts)**
- **RCW 82.04.419 (Exemptions--County, city, town, school district, or fire district activity)**
- **RCW 82.04.4282 (Deductions--Fees, dues, charges)**
- **RCW 82.04.4332 (Tuition fees of foreign degree-granting institutions)**
- **RCW 82.08.020 (Tax imposed--Retail sales--Retail car rental)**
- **RCW 82.08.02537 (Exemptions--Sales of academic transcripts)**
- **RCW 82.12.020 (Use tax imposed)**
- **RCW 82.12.02595 (Exemptions--Use of donated tangible personal property by nonprofit organization or governmental entity or for purpose donated--Use of related property)**
- **RCW 82.12.0264 (Exemptions--Use of dual-controlled motor vehicles by school for driver training)**
- **RCW 82.12.0284 (Exemptions--Use of computers or computer components, accessories, or software donated to schools or colleges)**
- **RCW 82.12.0347 (Exemptions--Use of academic transcripts)**

Interpretive and/or Policy Statements (e.g., ETAs, PTAs, IAGs):

Court Decisions:

Board of Tax Appeals Decisions (BTAs):

Appeal Division Decisions (WTDs):

Attorney General Opinions (AGOs):



Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

- **RCW 82.04.2905 (Tax on providing day care)**
- **RCW 82.04.4451 (Credit against tax due--Maximum credit--Table)**
- **RCW 82.08.0293 (Exemptions--Sales of food products for human consumption)**
- **RCW 82.08.0297 (Exemptions--Sales of food purchased with food stamps)**
- **RCW 82.12.0293 (Exemptions--Use of food products for human consumption)**
- **RCW 82.12.0297 (Exemptions--Use of food purchased with food stamps)**
- **RCW 84.36.020 (Cemeteries, churches, parsonages, convents, and grounds)**
- **Chapter 82.36 RCW (Motor vehicle fuel tax)**
- **Chapter 84.36 RCW (Exemptions)**
- **WAC 458-20-102 (Resale certificates)**
- **WAC 458-20-104 (Small business tax relief based on volume of business)**
- **WAC 458-20-118 (Sale or rental of real estate, license to use real estate)**
- **WAC 458-20-119 (Sales of meals)**
- **WAC 458-20-169 (Nonprofit organizations)**
- **WAC 458-20-187 (Coin operated vending machines, amusement devices and service machines)**
- **WAC 458-20-189 (Sales to and by the state of Washington, counties, cities, towns, school districts, and fire districts)**
- **WAC 58-20-201 (Interdepartmental charges)**
- **WAC 458-20-244 (Food and food ingredients)**
- **21 WTD 9 (Petition for Correction of Assessment of American Cultural Exchange dba The Language School)**

#### 10. Review Recommendation:

- X        **Amend**
- \_\_\_\_\_      **Repeal/Cancel** (Appropriate when action is not conditioned upon another rule-making action or issuance of an interpretive or policy statement.)
- \_\_\_\_\_      **Leave as is** (Appropriate even if the recommendation is to incorporate the current information into another rule.)
- \_\_\_\_\_      **Begin the rule-making process for possible revision.** (Applies only when the Department has received a petition to revise a rule.)

**Explanation of recommendation:** Provide a brief summary of your recommendation. If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, and court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, and court decisions).



The Department should revise this rule to incorporate the statutory changes noted in section 2, above.

At such a time as Rule 167 is next revised, the following citations (also noted above) should be corrected:

- In subsection (2)(b)(vii), "degree-granting private vocational school" are defined under chapter 28B.85 RCW (only), not chapter 28C.10 RCW. Chapter 28C.10 RCW refers once (RCW 28C.10.030) to "degree-granting programs."
- In subsection (3)(b) it should be "retailing B&O tax" not "retailing BO tax."
- In subsection (4)(a) it should be "RCW 82.08.02537" not "RCW 82.08.2537."
- In subsection (5)(b)(88) the reference should be to "chapter 84.36 RCW" not "chapter 82.36 RCW."
- In subsection (5)(b)(iii)(B), the RCW section from Chapter 182, Laws of 1998, that is pertinent is RCW 82.12.02595.
- In subsection (5)(b)(iv)(C), the "Community College Act of 1967" was updated and is now the "Community College Act of 1991" (RCW 28B.50.010) and could be referred to as "Community and Technical Colleges, Chapter 28B.50 RCW."

11. Manager action: Date: April 21, 2004

AL Reviewed and accepted recommendation

Amendment priority:

     1  
     2  
  X   3  
     4